

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage for First Class Mail, in an envelope addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, PO BOX 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated:

7/24/03

Signature:

Janine McNamara  
(Janine McNamara)

DT14 Rec'd PCT/PTO 28 JUL 2003

#15

Docket No.: NVSS-P01-001  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Mears et al

Application No.: 09/914944

Group Art Unit: 2874

Filed: September 5, 2001

Examiner: Not Yet Assigned

For: IMPROVEMENTS IN AND RELATING TO  
GRATINGS

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT**  
**UNDER 37 CFR 1.181**

Mail Stop PCT  
Commissioner for Patents  
Office of PCT Legal Administration  
PO Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This Petition is submitted in response to the Communication received from the PCT Legal Office and dated 18 June 2003. As stated in the Communication, a Notice of Missing Requirements was mailed by the United States Designated/Elected Office (DO/EO/US) indicating that an executed oath or declaration in compliance with 37 CFR .497 was required.

Ropes & Gray LLP is the present attorney of record in this application. The application file was transferred to Ropes & Gray LLP from the previous attorney of record, Pitney, Hardin, Kipp & Szuch LLP, on March 7, 2002. A copy of the letter evidencing the transfer is attached. As stated in the letter, Pitney, Hardin was aware that the executed declaration (which was in their possession) was awaiting a Notice of Missing Parts from the USPTO.

A revocation of prior powers of attorney and appointment of new Power of Attorney to Ropes and Gray was filed with the USPTO on May 20, 2003. Since the Notice of Missing Requirements was mailed by the USPTO prior to the transfer of the application file to Ropes & Gray, it can be assumed that the Notice was addressed to the previous attorney of record, Pitney, Hardin, Kipp & Szuch LLP.

The Communication dated 18 June 2003 indicating abandonment of the application was received at Ropes & Gray on June 23, 2003. I called the previous attorney at Pitney, Hardin who handled the case, Mr. Gerald Levy, on the same day and also spoke with his associate, Mr. Ronald Brown. I was informed that a check of their mail room log indicated that no Communication had been received from the USPTO in this matter. On June 27, 2003, I followed up with a letter to Mr. Levy requesting a statement from him in conformance with the modified procedure established by the USPTO to make a petition to withdraw the holding of abandonment grantable [1156 OF 53]. On July 23, 2003, I received a fax from Mr. Brown, with a declaration, which states in Section 8 that "the[ir] docketing software does not indicate that any Notice of Missing Parts, dated February 15, 2002 or any other date, was received for the above-identified application by the Pitney firm." A copy of Mr. Brown's statement with a printout from the docketing software are attached hereto.

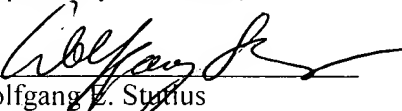
The Applicant herewith petitions the Commissioner to withdraw the holding of abandonment, since Applicant's attorney's records clearly show that the Office action mailed on 15 February 2002 has not been received, neither by the previous attorney of record, nor by the present attorney of record. Applicant also asks that a new Notice of Missing Requirements be mailed to present attorney of record.

The following documents are enclosed: (1) copy of letter dated March 5, 2002, indicating transfer of the application file; (2) copy of FAX received from the Pitney firm with a Declaration indicating that NOMP was not received, and printout from docketing software.

It is not believed that fees are required for this Petition. However, if there are any other fees due in connection with the filing of this Petition, please charge the fees to our Deposit Account No. 18-1945, referencing the attorney docket number listed above.

Dated: July 24, 2003

Respectfully submitted,

By   
Wolfgang E. Stenius

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March 5, 2002

VIA UNITED PARCEL SERVICE

Edward J. Kelly, Esq.  
Ropes & Gray  
One International Place  
Boston, Massachusetts 02110

*Ropes & Gray  
Intellectual Property Dept.*  
MAR - 7 2002 

Re: U.S. Patent Application 09/914,944  
Nanovis

Dear Mr. Kelly:

Further to our instructions from Mr. Mears of Nanovis, enclosed please find the patent application file for the above matter. Please note that the executed declaration is awaiting a Notice of Missing Parts from the Patent Office.

Please contact me with any questions.

Very truly yours,

  
GERALD LEVY

GL/reb

# PITNEY, HARDIN, KIPP & SZUCH LLP

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125 Half Mile Road  
Red Bank, NJ 07701  
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Fax # (732) 224-3630

Please check the appropriate location below:

Morristown ☐

New York ☒

Red Bank ☐

DATE:

To Wolfgang E. Stutius, Esq	Facsimile Number: 1617-951-7050
Company: Ropes & Gray	Phone Number:

From Ronald E. Brown	Phone Number 212 297 5800

Client/Matter Number:

Number of pages including transmittal sheets 5

Original will be sent: Overnight Mail ☒ Regular Mail ☐ Will not be sent ☐

Comments: As you requested, enclosed is the declaration for use in S.N. 09/914,944.

This message is intended only for the use of the addressee and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please notify our Fax Department at (212) 297-5805. Thank you.

FOR SENDER:

If there is a problem transmitting this fax and you are not in the office, should the operator call you at home?

\_\_\_ YES \_\_\_ NO

FAX OPERATOR ONLY

Name: \_\_\_\_\_

Date Sent: \_\_\_\_\_

Time: \_\_\_\_\_

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Mears et al.

Serial No.: 09/914,944

Filed: September 5, 2001

For: IMPROVEMENTS IN AND RELATING TO GRATINGS

**COMMUNICATION**

Commissioner of Patents and Trademarks  
P.O. Box 1450  
Alexandria, VA 22313-1450

SIR:

Ronald E. Brown does declare as follows:

1. That I am a member of the bar of New York and an associate with the firm of Pitney, Hardin, Kipp & Szuch LLP, (hereinafter "the Pitney firm").
2. That I am registered to practice before the Patent and Trademark Office.
3. That I have been informed that this application was filed with the Patent and Trademark Office by the Pitney firm on or about September 5, 2001.
4. That I have been informed that the records of the Patent and Trademark Office indicate that a Notice of Missing Parts was sent to the Pitney firm for this application on or about February 15, 2002.

5. That I have been informed that this application was transferred to the law firm of Ropes and Gray on or about March 5, 2002.

6. That I have been informed that neither the Pitney firm nor the law firm of Ropes and Gray has timely received the Notice of Missing Parts of February 15, 2002.

7. That I am familiar with the docketing procedures of the Pitney firm with respect to correspondence from the Patent and Trademark Office, which includes the entry of all such correspondence into the docketing software upon receipt from the Patent and Trademark Office prior to any other substantive action with respect to the correspondence.

8. That the docketing software does not indicate that any Notice of Missing Parts, dated February 15, 2002 or any other date, was received for the above-identified application by the Pitney firm.

9. That I enclose herewith a copy of a print-out from the docketing software of the Pitney firm, having no indication that such a Notice of Missing Parts was received by the Pitney firm for the above-identified application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ronald E. Brown", with a stylized flourish at the end.

Ronald E. Brown  
Registration No. 32,200

Pitney, Hardin, Kipp & Szuch LLP  
685 Third Avenue  
New York, New York 10017  
212-297-5800

270-3

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## Country Application

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Monday, July 14, 2003

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Case Number: 504270-002

Country: US

SubCase: 0

Client: ABEL & IRAY II

United States of America

Case Type: ORD

Application Status: Proposed

Application Number: 09/914,944

Filing Date:

Patent Number:

Issue Date:

Publication Number:

Publication Date:

Priority Number:

Priority Date:

Tax Schedule: LE

Expiration Date:

Tax Start Date:

Agent:

Agent Reference No.:

**Remarks:** 2/4/02 - Assigned to: Dr. Robert J. Mears; Recorded: 12/13/01; R/F: 012359/0776.  
2/4/02 - Assigned to: Nanovis LLC; Recorded: 12/13/01; R/F: 012359/0820.  
11/2/01 - Request for Refund sent to PTO for filing per REB.

User ID: pamela armour

Date Created: 20-Nov-2001

Last Update: 12-Feb-2002